

In the United States Patent and Trademark Office

Date: June 20, 2008

Serial Nbr: 10/612,540

In re Application of: Randy D Baxter, et al.

Filed: July 2, 2003

For: Assessing Information Technology Products

Art Unit: 3623

Examiner: Neil R. Kardos

Terminal Disclaimer to Obviate a Provisional Double Patenting

Rejection Over Pending Second Applications

The owner, International Business Machines Corporation, of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Numbers:

10/439,570, filed on May 16, 2003;
10/439,573, filed on May 16, 2003;
11/244,789, filed on October 6, 2005;
11/244,608, filed on October 6, 2005;
11/244,510, filed on October 6, 2005; and
11/244,644, filed on October 6, 2005,

of any patent on the pending second applications. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on any of the second applications are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on any of the second applications, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or is terminally disclaimed under 37 CFR 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as shorted by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

S/N 10/612,540

A request to charge Account **09-0461** the sum of \$130.00 is submitted herewith.

Respectfully submitted,

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S/N 10/612,540